



Cochise County, Planning and Zoning Commission

**MEETING MINUTES**

**August 8, 2012 at 4:00**

Cochise County Complex  
Board of Supervisors, Hearing Room  
1415 W. Melody Lane, Building G  
Bisbee, Arizona 85603

**CALL TO ORDER**

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Jim Lynch, Chair, at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona, in the Board of Supervisors Board Room.

Mr. Lynch reminded the public to turn off cell phones, use the speaker request forms provided, and to address the Commission from the podium using the microphone. He explained the time allotted to speakers when at the podium. He then explained the composition of the Commission and asked the Commissioners to introduce themselves.

**ROLL CALL**

Chair Lynch noted the presence of a quorum, and called the roll; eight Commissioners (Martzke, Miller, Brauchla, Lynch, Cervantes, Sanger, Bemis, and Edie) indicated their attendance. Montañó was absent.

**CALL TO THE PUBLIC**

Chair Lynch opened the "Call to the Public," and being none, Chair Lynch closed the "Call to the Public."

**APPROVAL OF PREVIOUS MONTH'S MINUTES**

Mr. Lynch offered approval of the July 11, 2012 minutes, noting the corrections pointed out by Ms. Edie. On page 2, the approval of minutes from the prior meeting indicates that Mr. Cervantes voted yes but he was absent from the meeting and therefore this should be stricken and the summary of the vote should be 6-0.

**Motion:** Approve the minutes of the July 11, 2012 meeting with the corrections as noted.

**Action:** Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

**Vote:** Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 1)

**Yes:** Mr. Martzke, Ms. Miller, Mr. Brauchla, Chair Lynch, Mr. Bemis, Mr. Sanger, Ms. Edie  
**No:** 0

**Abstain:** Mr. Cervantes

**Absent:** Mr. Montano

## **NEW BUSINESS**

### **Item 1 – Docket SU-12-09 (Grover):**

Deputy Director Beverly Wilson presented the Docket, which is a special use authorization for repair services in a Rural RU-4 District, located northwest of Sunsites, and she showed the location on a map. Ms. Wilson stated that this is a request to legitimize a business which has grown, that Mr. Grover is using an existing metal building that he installed on the parcel. The plan was originally to build a house on the property as well, but this has yet to occur, meanwhile, however, there is a business operating on the property. Ms. Wilson stated that if there were a house on the site, a Home Occupation Permit would have been issued, but since there is no house it is being brought in front of the Commission as a Special Use request.

Ms. Wilson explained other relevant facts of the case, noting that three neighbors had written in support of the request. She also explained the reasons for the Applicant's request, and that a number of site development standards be waived or modified. She concluded by offering factors in favor of and against approval, and invited questions from the Commission. Chairman Lynch called for questions of staff; seeing none, he opened the public hearing and invited the Applicant to speak.

The Applicant, Mrs. Grover, introduced herself and explained their intent to move onto the piece of property and the reasons why they were unable to build a home on the subject property. She indicated that she and her husband still intend to construct a house on the property and reside there full time in the future. She stated that no one goes to the property except themselves. She asked if there were any questions, and there were none.

Chairman Lynch opened the Public Hearing and invited comments from the public. Seeing none, he stated that a rebuttal was not needed and the Public Hearing was closed. He asked if the Commissioners had any comments and there were none.

Mr. Lynch asked for the Planning Director's recommendation. Ms. Wilson stated that staff is recommending conditional approval of this docket and explained the recommended conditions.

Mr. Lynch called for a motion on this Docket and Mr. Martzke moved to approve Docket SU-12-09 with the conditions and requested modifications listed on page 6 of the staff memorandum, and the factors in favor of approval being findings of fact. Mr. Bemis seconded the motion.

**Motion:** Motioned to approve Special Use Docket SU-12-09

**Action:** Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

**Vote:** Motion passed unanimously (**Summary:** Yes = 7, No = 0, Abstain = 1)

**Yes:** Mr. Martzke, Ms. Miller, Chair Lynch, Mr. Brauchla, Mr. Bemis, Ms. Edie, Mr. Sanger,

**Abstain:** Mr. Brauchla

## **Item 2 – Public Hearing Docket SU-08-17A (Lucore): Request for Special Use**

Mr. Lynch asked for the Planning Director's Report and Senior Planner Keith Dennis presented the Docket, which is a request to modify an approved Special Use, Docket SU-08-17. It was approved by the Commission in 2008 as a large scale multi-use foster care operation with a number of amenities for children and community living on the Children's Ranch, including an RV park for visiting guests, a chapel, walking trails, equestrian trails and go cart track. Due to economic issues and other obstacles, four years later, there is only a very small amount of development on the property, namely, four manufactured homes, two of which are occupied by staff and the director, and two occupied by foster families.

The request is for the Commission to modify the Special Use to allow the Applicant to (1) continue to place manufactured homes on the property to house children until they can get funding to build site-built homes that were originally planned; and (2) alleviate the Applicant from having to reset the deadline to get a commercial permit when they are essentially putting residential units on the property. These requests would require modifications to Condition number one of Docket SU-08-17. The applicant wants to place three additional manufactured homes and a small chapel on the property over the next five years. The property is located on Grapevine Loop in Benson, AZ. Mr. Dennis stated that the Applicant was present and showed a map of the property and surrounding area, showed the concept plan that was approved in 2008 and the broad range of uses approved at that time.

Mr. Dennis showed what the ranch looks like today and explained that in the spring of 2009 the Applicant applied for and obtained ag-exempt status for a portion of the property. Mr. Dennis noted that staff had received an objection from a neighbor with concerns about property values and vandalism in the area.

Mr. Dennis concluded by offering factors for and against granting the modification, and asked for Commission questions. Mr. Bemis asked if the property is not for sale at this time and he said that that was his understanding, and that the opposing citizen misunderstood. Mr. Martzke asked if the property was in a floodplain.

Mr. Lynch opened the public hearing and asked Ms. Lucore to come to the podium. She introduced herself, and said that it was a concern to them that anyone had a grievance regarding what they were doing. She stated that the property had never been for sale. Ms. Lucore brought news articles regarding the needy children in Arizona and the need for them to have places to be cared for, she also stated that Mr. White who, was in the audience, and another on-site worker have 50 years of experience between them in commercial building and maintenance.

Ms. Lucore stated that there is a floodplain area in which they put the barn, but that they do not intend to put anything for children in that location. She said that they have entered into a contract with the State of Arizona to take in more children. With the money they are receiving they are now able to offer salaries to people doing work. A question was asked as to the source of water and she stated that they have a well which is 540-ft. deep but the State has asked that they get Culligan water delivered. Mr. Sanger asked how much money they think they will need to finish the

project; Ms. Lucore responded “millions” and Mr. Sanger asked as to their progress with funding, and if they had a controller. The Applicant responded that she did, and that it was Jim Cox, Finance Director for the City of Benson. Mr. Bemis also had questions regarding the court system with juvenile detainees and Ms. Lucore said they are just a residential care facility

Mr. Lynch opened the public hearing and asked if there was anyone that was in favor of this docket and there being none he asked if there were any that were opposed. Mike Klein, who resides at 1220 E. Hartley Lane, stated that he heard that they were for sale and found out that they did not have legal access to the property. He indicated that they do not want a trailer court and do not want a hazard. Ms. Lucore responded that they have been there since 2004 and it has never been for sale; she also explained the access to the property and future plans regarding the road.

Mr. Lynch asked if there were any questions from the Commissioners. Mr. Martzke asked staff if there is a legal entrance into the property; Mr. Dennis responded that the issue came up at the time of the initial special use application in 2008. He stated the docket was approved by the Planning Commission with a Condition added that states the Applicant accepts all risks associated with obtaining access to the site via Grapevine Loop, which is a roadway on private land and for which no easement is recorded. Mr. Lynch asked who the owner of the unrecorded property was, and Mr. Dennis stated that the property is owned by San Pedro Railroad. Mr. Bemis asked Mr. Dennis if there are any safety issues associated with not having legal access with Fire Department emergency vehicles and things of that nature since there is a children’s facility. Mr. Dennis responded that it was transmitted to the City of Benson and that it is their fire enforcement area, but that he did not have any of those findings in front of him.

Mr. Lynch asked if there were any questions for staff. Mr. Bemis asked Mr. Dennis if the Fire Department and the Police Department all have jurisdiction to access private property if there is an emergency. Mr. Dennis said he did not know.

Mr. Lynch closed the Public Hearing and asked for Commission discussion. Mr. Martzke had a question regarding the legality of the access to the property, specifically if there was a memorandum of understanding between the railroad and All The King’s Horses Ranch. Mr. Bemis asked if the road is legally locked and Ms. Lucore responded no. Mr. Martzke stated that his understanding is that if an owner has access that is not locked for one 24 hr. period at least once a year and continues for 7 years there is legal recourse to get access along that stretch of road. Mr. Britt Hanson stated that there are regulations concerning “prescriptive easements” in Arizona.

Mr. Lynch asked for the Summary and Recommendation. Mr. Dennis stated that the recommendation was for conditional approval, and listed and explained the Conditions being recommended by staff. At the conclusion of staff’s recommendations, Mr. Lynch asked what the consequences are if they deny this request. Mr. Dennis responded that the Special Use would remain as it was approved previously, and that the Applicant is currently under a deadline for obtaining a commercial permit in conformance with the 2008 approved concept plan by November 12th of this year. Mr. Bemis asked if they go the commercial permit route would it cause additional expense in their operation to upgrade to a commercial operation from what they are currently doing.

Mr. Dennis responded that the original approval came with a number of modifications to development standards beyond the requirement standard for legal access, and that several of these standards were waived in 2008. Mr. Lynch reviewed the modifications that were previously approved.

Mr. Bemis recommended approval of Docket SU-08-17A modifying special use SU-08-17, subject to the conditions recommended by staff. Mr. Brauchla seconded the motion. The motion Tied (4 – 4).

**Motion:** Conditionally Approve Docket SU-08-17A.

**Action:** Approve **Moved by:** Mr. Bemis, **Seconded by:** Mr. Brauchla

**Vote:** Motion tied (**Summary:** Yes = 4, No = 4, Abstain = 0)

Mr. Montañño was absent.

**Yes:** Mr. Bemis, Ms. Miller, Mr. Brauchla, and Mr. Martzke

**No:** Mr. Lynch, Ms. Edie, Mr. Cervantes, and Mr. Sanger

Mr. Lynch stated that because there was a tie vote there will be no decision and the docket will be reheard at the next regular meeting.

### **Item 3-Public Hearing Docket-CP12-01/Z-12-05(Martin) Comprehensive Plan Amendment request.**

Mr. Lynch called for the Planning Director's report.

Planning Manager Michael Turisk introduced Docket CP-12-01/Z-12-05, being a request for a Comprehensive Plan Amendment from Neighborhood Conservation to Developing in order to facilitate a concurrent rezoning of a 6.3 acre parcel near Whetstone; the Applicant is Mr. Bill Martin of Madera Realty in Tucson. The purpose of the rezoning is to facilitate as of yet to be named commercial use or uses, on a parcel approximately 7/10 of a mile north of Mustang Corners In the Whetstone area. Mr. Turisk showed a graphic illustration of the subject parcel and zoning designations of the parcels in the area. He provided an overview of how a Comprehensive Plan Amendment works in relation to a rezoning request and spoke at some length about the Comprehensive Plan Map and the Growth Categories. Mr. Turisk explained that, in order for the subject property to be rezoned as requested by the Applicant, the Comprehensive Plan must first be amended to change the Plan Designation to Developing.

Mr. Turisk then explained other facts of the case and of such requests generally, noting that the property was adjacent to an existing General Business District. He indicated that a thorough analysis of the rezoning was a challenge because a specific development plan was not part of the Application. He also explained that depending on the eventual use of the property, once rezoned to General Business, a future owner or developer may be required to contribute to improvements to the SR 90/E. Hamel Rd. intersection. Mr. Turisk also indicated that staff had received two letters of support and two letters opposing the request. He concluded the presentation by offering factors in favor of and against approval.

Mr. Turisk asked if there were any questions, and there being none, the public hearing was opened and the Applicant, Mr. Martin, was given an opportunity to make a statement, in which he gave a description of his business and the property.

Mr. Lynch asked if there were any questions and, there being none, he stated that there was no need for a rebuttal and the public hearing was closed.

Mr. Lynch asked the Commissioners if they had any questions. Mr. Lynch asked where the Whetstone Fire Department property was and Mr. Turisk was told it was to the North on Camino de Manaña. Mr. Bemis stated that he had concerns for the neighborhood to change a zoning for an unspecified use, and that the neighbors who have bought homes there have no input as to future development. He stated that if he lived in that neighborhood he would like to have the opportunity to interface with Planning and Zoning for any specific use but for an open change in a residential community he has some concern. He felt that they need to look at what the long-range plan the County has set up and he asked for any comments. Mr. Martzke commented that the request is for General Business, not Light or Heavy Industrial, and that it may not be appropriate to have residential zoning along a four-lane major highway. Mr. Bemis stated that it is a complex situation and he has been trying to assess their responsibility to the community, namely, that if a noxious use is developed on the property there would be no oversight without specific approval conditions being placed now. Mr. Turisk stated that most of the permitted General Business uses might be harmonious with the residential uses behind it, but that for heavier uses a Special Use Permit would be required and the Commission, and thus there would be oversight. Mr. Bemis asked what use category a Marijuana Farm comes under and Mr. Turisk responded that Medical Marijuana Cultivation requires a special use permit therefore, if the Board approves this request a Medical Marijuana Cultivation facility would not be a permitted use, the applicant would need to obtain a special use permit for that use. Mr. Martzke said that years back there was an attempt to implement an area plan for the Whetstone area and at that time the public did not want to see General Business being put in without being allowed input, but the community did not come to an agreement, and that is why it is set up the way it is.

Mr. Lynch asked for staff's recommendation and Mr. Turisk stated that based on the factors favoring approval the Department recommends forwarding a recommendation of approval to the Board for an August 28<sup>th</sup> meeting with one condition which is a standard condition that the applicant sign an Acceptance of Condition and Waiver of Claims form. The hearing with the Board will be on Tuesday August 28<sup>th</sup> at or after 10:00 am.

Chair Lynch asked for motion with regard to the requested change to the Comprehensive Plan. Mr. Martzke motioned to recommend approval of Docket CP-12-01 a Comprehensive Plan amendment changing the Plan Designation of said property from Neighborhood Conservation to Developing. Mr. Bemis seconded the motion. Mr. Lynch asked if there was any discussion on motion one and Mr. Martzke gave his support and reasons for it, and Mr. Bemis was in agreement with him.

**Motion:** Conditionally Approve Docket CP12-01.

**Action:** Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

**Vote:** Motion passed unanimously (**Summary:** Yes = 8 No = 0, Abstain = 0)

Mr. Montañño was absent.

**Yes:** Mr. Martzke, Ms. Miller, Chair Lynch, Mr. Brauchla, Mr. Bemis, Ms. Edie, Mr. Sanger, Mr. Cervantes.

Chair Lynch asked for a motion regarding Docket Z-12-05 to rezone the subject parcel to GB. Mr. Martzke motioned to recommend approval of Docket Z-12-05 to rezone the subject parcel from TR36 to GB with the conditions recommended by staff. Ms. Edie seconded the motion. Mr. Martzke stated that recommendations for approval are findings and fact. He stated that although he moved to rezone the parcel, he would not be voting for it because, in the absence of a specific development plan, he was uncomfortable supporting the rezoning request. Mr. Bemis agreed, stating that there are challenges and opportunities for development in this area, and that the responsible course of action would be to approve a rezoning with a development plan, the impacts or implications of which should be known up front.

Mr. Lynch asked for a motion.

**Motion:** Conditionally Approve Docket Z-12-05.

**Action:** Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

**Vote:** Motion passed unanimously (**Summary:** Yes = 0 No = 8, Abstain = 0)

Mr. Montañño was absent.

**No:** Mr. Martzke, Ms. Miller, Chair Lynch, Mr. Brauchla, Mr. Bemis, Ms. Edie, Mr. Sanger, Mr. Cervantes.

Mr. Turisk stated that the Commission will hear six dockets in September. Besides the Children's Ranch Docket, there will be a rezoning request for Light Industry in the Sunsites area, as well as four Special Use requests; (1) for a Bed and Breakfast in Pearce, (2) for Community Events in McNeal, (3) for a Slaughter House and Meat Packing facility in the Sunsites area, and (4) for a Residential Care Institution in Hereford. He introduced and welcomed Karen Riggs who is the Interim Community Development Director and also stated that Beverly Wilson has been named Deputy Planning Director.

**ADJOURNMENT:** Mr. Martzke moved to adjourn, Mr. Bemis seconded, and the meeting was adjourned at 5:44 p.m.